

The DOL Issues Proposed Rules on Retirement Plan and IRA Investment Advice

On March 2, 2010, the Department of Labor (DOL) issued proposed regulations relating to the provision of investment advice to individual account plan participants and beneficiaries, and IRA¹ owners. These proposed rules replace previously issued (but not applicable) final regulations that were withdrawn on November 20, 2009.

If adopted, the proposed rules would implement a statutory prohibited transaction exemption under ERISA Sec. 408(b)(14) and Sec. 408(g), and IRC Sec. 4975 for the provision of investment advice by a fiduciary adviser (FA) under an eligible investment advice arrangement (EIAA) that uses a level-fee or computer-based advice model that meets the requirements of the regulations.

The previously withdrawn final regulations contained both a statutory prohibited transaction exemption for the provision of investment advice using a level-fee or computer model arrangement; and an administrative class exemption for the provision of "off-model" advice provided subsequent to investment recommendations generated from a computer model. In contrast, these proposed regulations contain only a statutory prohibited transaction exemption for level-fee or computer model advice, and exclude the class exemption for off-model advice.

Interested parties may submit written comments on these proposed regulations to the DOL on or before May 5, 2010. The proposed effective date of the regulations is 60 days after publication of the final regulations in the Federal Register.

Readers may access the proposed regulations online through the following link.

<http://www.dol.gov/federalregister/PdfDisplay.aspx?DocId=23559>

¹ Pursuant to the regulations, IRA means an IRC Sec. 408(a) IR account, an IRC Sec. 408(b) IR annuity, an Archer Medical Savings Account, a Health Savings Account, a Coverdell Education Savings Account